
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

ME2 PRODUCTIONS, INC., Plaintiffs, v. VAIPAPA TALIA, KRISTA WEBBER, ARMANDO MEDINA, MARIA FLORES, and NORMA/ERNESTO VEGA LOPEZ, Defendants.	MEMORANDUM DECISION AND ORDER DENYING ARMANDO MEDINA'S MOTION TO DISMISS, VACATING HIS DEFAULT, AND SETTING DEADLINE TO ANSWER Case No. 2:17-cv-00179-DN District Judge David Nuffer
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Armando Medina, a pro se defendant, filed a Motion to Dismiss, which reads in full:

I, Armando Medina, representing myself without a lawyer, move to/for Case Dismissal under the following statute(s)/rule(s) (if known) _____ for the following reason(s): I request this case to be dismissed. I received a Hearing notification on 03/26/19 and the hearing was schedule[d] for 03/22/19. I never download[ed] any movie named Mechanic.¹

Plaintiff ME2 Productions Inc. (“ME2”) opposes this motion on the grounds that it is untimely because Medina’s default was entered on June 24, 2018, as a result of his failure to file a response to ME2’s complaint.² ME2 also opposes this motion on the grounds that its pleadings state a facially plausible claim for relief.

Although the clerk has entered Medina’s default, ME2 has not yet obtained a default judgment against him. And, while Medina did not file a response to ME2’s original complaint, ME2 recently filed an amended complaint against him on June 17, 2019. Under the

¹ Docket no. 81, filed April 22, 2019.

² Opposition to Motion to Dismiss of Armando Medina, docket no. 82, filed May 20, 2019.

circumstances, Medina's motion is not untimely and the clerk's entry of his default should be vacated if Medina files a timely response to ME2's amended complaint.⁶

However, the well-pleaded factual allegations set forth in ME2's amended complaint,³ when viewed in the light most favorable to ME2, state a facially plausible claim for relief.⁴ As a result, Medina's motion must be denied.

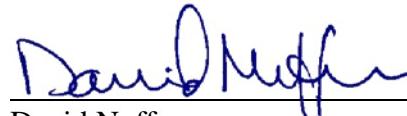
ORDER

THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Motion to Dismiss is DENIED;⁵
2. If Medina files a response to the Amended Complaint for Copyright Infringement and Jury Demand⁶ by no later than *July 26, 2019*, the default certificate⁷ entered against Medina will be vacated. If no response is filed, ME2 may move for default judgment.

Signed July 8, 2019.

BY THE COURT:



David Nuffer
United States District Judge

³ Amended Complaint for Copyright Infringement and Jury Demand, [docket no. 46](#), filed June 17, 2019.

⁴ See *Mayfield v. Bethards*, 826 F.3d 1252, 1255 (10th Cir. 2016) ("To survive a motion to dismiss, a complaint must allege facts that, if true, state a claim to relief that is plausible on its face. A claim is facially plausible when the allegations give rise to a reasonable inference that the defendant is liable." (internal quotation marks omitted)).

⁵ [Docket no. 81](#), filed April 22, 2019.

⁶ [Docket no. 83](#), filed June 17, 2019.

⁷ Entry of Default Pursuant to FRCP 55(a) as to Certain Defendants, [docket no. 46](#), filed June 4, 2018.